

NO. 24322

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

TIMOTHY L. GIEFFELS, Defendant-Appellant

APPEAL FROM THE SECOND CIRCUIT COURT
(CR. NO. 5740)

ORDER DENYING MOTION FOR RECONSIDERATION
(By: Moon, C.J., Levinson,
Nakayama, Ramil, and Acoba, JJ.)

Upon review of the motion for reconsideration of the court's February 6, 2002 order dismissing appeal, the papers in support and the record, it appears that Appellant's assertion that he delivered his notice of appeal to prison officials on May 24, 2001 is not supported by any evidence of mailing and Appellant was allowed to, but did not supplement his motion for reconsideration with a certified copy of the Florence Correctional Center mail log for May 24, 2001. Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied. The denial is without prejudice to Appellant filing a motion in the circuit court for determination of the time his notice of appeal was delivered to prison officials, see Setala v. J.C. Penney Co., No. 22943 (Haw. Feb. 8, 2002), and seeking reinstatement of this appeal if the circuit court determines that the notice of appeal was delivered to prison officials on May 24, 2001.

DATED: Honolulu, Hawai'i, March 19, 2002.

Timothy L. Gieffels
appellant pro se
on the motion